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Sunset Reviews
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AD/CVD Operations, O7/DLS

MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for Sunset Reviews of the
Antidumping Duty Orders on Forged Stainless Steel Flanges from
India and Taiwan; Final Results

SUMMARY:

We have analyzed the substantive response of the domestic interested parties in the second sunset reviews of the antidumping duty orders on forged stainless steel flanges (flanges) from India and Taiwan.¹ We recommend that you approve the positions we develop in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margin likely to prevail

History of the Orders

On December 29, 1993, the Department of Commerce (the Department) published the final determinations of sales at less than fair value (LTFV) on flanges from India and Taiwan. See Notice of Final Determination of Sales at Less Than Fair Value; Certain Forged Stainless Steel Flanges from India, 58 FR 68853 (December 29, 1993) and Final Determination of Sales at Less Than Fair Value; Certain Forged Stainless Steel Flanges from Taiwan, 58 FR 68859 (December 29, 1993), respectively. On February 9, 1994, the Department published the amended final determination and antidumping duty order on flanges from India. See Amended Final Determination and Antidumping Duty Order; Certain Forged Stainless Steel Flanges From India, 59 FR 5994 (February 9, 1994). The Department also published the antidumping duty order on

¹We received no responses from respondent interested parties.

flanges from Taiwan on February 9, 1994. See Antidumping Duty Order: Certain Forged Stainless Steel Flanges from Taiwan, 59 FR 5995 (February 9, 1994). In its amended final determination regarding Indian flanges, the Department assigned antidumping duty margins of 210.00 percent to Mukand, Ltd., Sunstar Metals Ltd., Bombay Forgings Pvt. Ltd., and Dynaforge Forgings India, Ltd., 18.56 percent to Akai Impex Pvt., Ltd., and 162.14 percent to “all other” manufacturers and exporters of flanges from India. Similarly, in the final determination regarding flanges from Taiwan, the Department established weighted-average dumping margins of 48.00 percent for Enlin Steel Corporation, Ta Chen Stainless Pipe Co., Ltd., Tay Precision Industries Co., Ltd., and “all others.”

On December 1, 1999, the Department initiated the first sunset reviews of the antidumping duty orders on flanges from India and Taiwan pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See Notice of Initiation of Five-Year (“Sunset”) Reviews, 64 FR 67247 (December 1, 1999). With respect to flanges from Taiwan, the Department did not conduct any administrative reviews or new shipper reviews between the issuance of the antidumping duty order and the first sunset review. However, in the case of flanges from India, prior to the first sunset review, the Department completed one administrative review² and four new shipper reviews³. As a result of the first sunset reviews, pursuant to sections 751(c) and 752 of the Act, the Department determined that revocation of the antidumping duty orders on flanges from India and Taiwan would likely lead to continuation or recurrence of dumping. See Certain Forged Stainless Steel Flanges from India and Taiwan; Final Results of Antidumping Duty Expedited Sunset Reviews, 65 FR 18058 (April 6, 2000) (Department’s first sunset reviews). On August 2, 2000, the International Trade Commission (the ITC), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty orders on flanges from India and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Forged Stainless Steel Flanges from India and Taiwan, 65 FR 47517 (August 2, 2000), and USITC Publication 3329 (July 2000), entitled Forged Stainless Steel Flanges from India and Taiwan: Investigations Nos. 731-TA-639 and 640 (Review). Accordingly, the Department published a notice of the continuation of the antidumping duty orders on flanges from India and Taiwan, pursuant to 19 C.F.R. § 351.218(f)(4). See Continuation of Antidumping Duty Orders: Forged Stainless Steel Flanges from India and Taiwan, 65 FR 49964 (August 16, 2000).

Since the final results of the first sunset reviews, the Department has completed five administrative reviews of flanges from India. In the first of these, the Department calculated the following weighted-average margins: Echjay Forgings Ltd. (Echjay), 0.00 percent; Isibars Ltd.

² See Certain Forged Stainless Steel Flanges From India; Final Results of Antidumping Duty Administrative Review, 61 FR 51263 (October 1, 1996).

³ See Certain Forged Stainless Steel Flanges From India: Final Results of Antidumping Duty New Shipper Review, 62 FR 1317 (January 9, 1997); Certain Forged Stainless Steel Flanges From India: Final Results of Antidumping Duty New Shipper Reviews, 62 FR 9735 (March 4, 1997); and Certain Forged Stainless Steel Flanges From India: Final Results of Antidumping Duty New Shipper Review, 63 FR 25824 (May 11, 1998).

(Isibars), 6.76 percent; Panchmahal Steel Ltd. (Panchmahal), 61.31 percent; Patheja Forgings and Auto Parts Ltd. (Patheja), 210.00 percent; and Viraj Forgings Ltd. (Viraj), 21.10 percent. See Certain Stainless Steel Flanges From India: Final Results of Antidumping Duty Administrative Review, 66 FR 48244 (September 19, 2001). In the subsequent administrative review, the Department found margins of 0.00 percent for Isibars and Viraj and 210.00 percent for Panchmahal and Patheja. See Certain Stainless Steel Flanges From India: Final Results of Antidumping Duty Administrative Review, 67 FR 62439 (October 7, 2002). In the third administrative review conducted since the first sunset review of flanges from India, the Department found that the following weighted-average margins existed: Echjay, 20.08 percent; Snowdrop Trading Pvt. Ltd. (Snowdrop), 210.00 percent; and Viraj, 0.00 percent. See Certain Forged Stainless Steel Flanges From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 68 FR 42005 (July 16, 2003). The Department calculated margins of 0.00 percent for Chandan Steel Ltd. (Chandan) and Isibars and a 0.04 percent margin for Viraj in the subsequent review. See Certain Forged Stainless Steel Flanges From India: Final Results of Antidumping Duty Administrative Review, 69 FR 10409 (March 5, 2004). Finally, in the fifth administrative review completed since the first sunset review, the Department found margins of 0.03 percent for Echjay and 0.01 percent for Viraj. Because Viraj had not sold the subject merchandise at less than fair value for at least three consecutive periods of review, the Department revoked the order on flanges from India with respect to Viraj. See Stainless Steel Flanges From India: Notice of Final Results of Antidumping Duty Administrative Review and Revocation in Part, 70 FR 39997 (July 12, 2005). In addition, since the first sunset review of flanges from India, the Department has completed two new shipper reviews in which it found weighted average margins of 4.08 percent for Bhansali Ferromet Pvt. Ltd. and 0.00 percent for Metal Forgings Pvt. Ltd. See Certain Stainless Steel Flanges From India: Bhansali Ferromet Pvt. Ltd., 66 FR 11258 (February 23, 2001) and Certain Forged Stainless Steel Flanges From India: Final Results of Antidumping Duty New Shipper Review, 68 FR 351 (January 3, 2003), respectively.

With respect to the antidumping duty order on flanges on Taiwan, the Department has not conducted any administrative or new shipper reviews since the first sunset review. We have not conducted duty absorption reviews on the antidumping duty orders on flanges from India or Taiwan since the first sunset review.

Background

On July 1, 2005, the Department initiated the second sunset reviews of the antidumping duty orders on flanges from India and Taiwan pursuant to section 751(c) of the Act. See Initiation of Five-Year ("Sunset") Reviews, 70 FR 38101 (July 1, 2005) (Department's second sunset reviews). The Department invited interested parties to comment. The Department received a notice of intent to participate from two domestic interested parties, Gerlin, Inc. (Gerlin) and Maass Flange Corporation (Maass Flange), within the deadline specified in 19 C.F.R. § 351.218(d)(1)(i). Gerlin and Maass Flange claimed interested party status under section 771(9)(C) of the Act as U.S. producers of a domestic like product. The Department received a substantive response from Gerlin and Maass Flange within the deadline specified in 19 C.F.R. § 351.218(d)(3)(i). Both Gerlin and Maass Flange claim they were petitioners in the antidumping

duty investigation of flanges from India and Taiwan, along with Flowline Division of Markovitz Enterprises, Inc., Ideal Forging Corporation, and Westbrook Flange. Gerlin and Maass Flange also maintain they have participated in many of the administrative and new shipper reviews conducted since the investigation and the first sunset reviews. The Department did not receive responses to the notice of initiation from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 C.F.R. § 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of these orders.

These sunset reviews cover imports from all manufacturers and exporters of flanges from India and Taiwan except Viraj Forgings, Ltd., for which the order on flanges from India was revoked.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of the antidumping duty orders on flanges from India and Taiwan would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider both the weighted-average dumping margins calculated in the investigation and subsequent administrative reviews and the volume of imports of the subject merchandise for the periods before and after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the interested parties.

Interested Party Comments

1. Likelihood of Continuation or Recurrence of Dumping

Gerlin and Maass Flange contend that revocation of the antidumping duty orders on flanges from India and Taiwan would likely lead to continued or resumed dumping because most respondents have continued to dump subject merchandise in the United States and have greatly reduced their U.S. sales since the issuance of the orders. See Substantive Response of Gerlin and Maass Flange, August 1, 2005, at 16 (Substantive Response). According to Gerlin and Maass Flange, this pattern of continued dumping and reduced U.S. sales volumes shows that if the orders were revoked, foreign producers and exporters would have to dump in order to sell subject merchandise in the United States in more substantial quantities. Id. Gerlin and Maass Flange argue import volumes have fallen significantly due to the sizable dumping margins that have existed for most foreign producers throughout the course of the orders, although they note some Indian producers and exporters currently have de minimis margins. Id. at 17. Gerlin and Maass Flange assert that the volume of Indian flange imports rose dramatically in pre-order years and declined significantly after the imposition of the antidumping duty order on Indian flanges. Id. at 18 and Attachment 2. Since the issuance of the order, Gerlin and Maass Flange argue, U.S. imports of Indian flanges have averaged less than half of their pre-order volumes. Id. Gerlin and Maass Flange contend that while the volume of Indian flange imports has risen in recent years,

the volume has not increased as much as it would have if the order were not in place. Id.

With respect to flanges from Taiwan, Gerlin and Maass Flange hold that U.S. imports have experienced a similar decline since the issuance of the Taiwanese order, stating that imports of Taiwanese flanges have remained approximately 75 percent below their pre-order level throughout the course of the order. Id. Due to lower post-order import volumes as compared to the pre-order period, as well as the continued existence of dumping margins, Gerlin and Maass Flange contend the Department should, in accordance with the legislative history, the Department's policy, and the first sunset reviews, find that foreign producers and exporters likely would continue or resume dumping in order to be able to sell in the U.S. market at pre-order volumes. Id. at 18-19.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA), specifically the Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly.

The records of the orders show that dumping has persisted since the issuance of the orders on flanges from India and Taiwan. While some Indian producers and exporters currently have zero or de minimis deposit rates, above de minimis deposit rates remain in effect for several other producers and exporters of Indian flanges. In the case of Taiwan, above de minimis deposit rates remain in effect for all flange producers and exporters. The Department also analyzed and considered the volume of imports of the subject merchandise for the period before issuance of the orders and for the period after the issuance of these orders, as well as import volumes over the past five years. We note that in the years immediately following the issuance of the order on flanges from India, the volume of U.S. imports for consumption fell substantially, although in more recent years U.S. imports of Indian flanges have been rising. See Memorandum to File, dated October 31, 2005, regarding import volumes of flanges from India and Taiwan. Regarding Taiwan, since the imposition of the antidumping duty order, annual imports of flanges have continued to be well below pre-order levels. Id. Import volumes aside, we find that the mere continuation of dumping at above de minimis levels by Indian and Taiwanese producers and exporters warrants the continuation of the orders on flanges from India and Taiwan. In sum, on the basis of information on the record, and for the reasons discussed above, we continue to find that dumping would be likely to continue or recur if the antidumping duty order were revoked.

2. Magnitude of the Margin Likely to Prevail

Gerlin and Maass Flange contend that in accordance with the legislative history, the Department's normal policy, and the first sunset reviews, the Department should report to the ITC the dumping margins from the original investigations of flanges from India and Taiwan, as these rates best demonstrate the behavior of foreign producers and exporters without the restraint of the orders.

Department's Position

Section 752(c)(3) of the Act provides that the Department will report to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. The Department normally will select a margin from the final determination of the investigation because that is the only calculated rate that reflects the behavior of producers and exporters without the discipline of an order. See SAA at 890, and the House Report at 64.

In the final determination of the investigation of flanges from India, the Department found dumping margins of 210.00 percent for Mukand, Ltd., Sunstar Metals Ltd., Bombay Forgings Pvt. Ltd., and Dynaforge Forgings India, Ltd., 18.56 percent for Akai Impex Pvt., Ltd., and 162.14 percent for all others. In the first sunset review, the Department determined that the margins calculated in the original investigation of flanges from India were probative of the behavior of Indian producers and exporters without the discipline of the antidumping duty order. In the final results of subsequent administrative reviews of flanges from India, the Department continued to find margins above de minimis levels for several Indian producers and exporters.⁴ For the second sunset review of flanges from India, the Department does not find any indication that the margins calculated in administrative reviews subsequent to the first sunset review are more probative of the behavior of exporters without the discipline of the order.

With respect to the order on flanges from Taiwan, in the first sunset review, the Department found that the margins calculated in the original investigation (*i.e.*, 48.00 percent for Enlin Steel Corporation, Ta Chen Stainless Pipe Co., Ltd., Tay Precision Industries Co., Ltd., and all other producers and exporters) were probative of the behavior of Taiwanese producers and exporters without the discipline of the antidumping duty order, and the Department has not since conducted any administrative reviews. As in the first sunset reviews, the Department continues to find that the margins calculated in the original investigations are probative of the behavior of Indian and Taiwanese producers and exporters of flanges if the orders were revoked. Therefore, the Department finds that the margins from the original investigations of flanges from India and Taiwan are the appropriate margins to report to the ITC. Consistent with section 752(c) of the Tariff Act, the Department will report to the ITC the company-specific and "All Others" rates from the investigations as indicated in the "Final Results of Reviews" section of this memorandum.

⁴As noted above, the antidumping duty order on flanges from India has been revoked with respect to Viraj, and as a result, this sunset review does not cover imports from Viraj.

Final Results of Reviews

As a result of these sunset reviews, the Department determines that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
<u>India</u>	
Mukand, Ltd.	210.00
Sunstar Metals Ltd.	210.00
Bombay Forgings Pvt. Ltd.	210.00
Dynaforge Forgings India, Ltd.	210.00
Akai Impex Pvt., Ltd.	18.56
All Others	162.14
<u>Taiwan</u>	
Enlin Steel Corporation	48.00
Ta Chen Stainless Pipe Co., Ltd.	48.00
Tay Precision Industries Co., Ltd.	48.00
All Others	48.00

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of these sunset reviews in the Federal Register.

AGREE _____

DISAGREE _____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date